



*Testimony of the
Navajo Nation*

*On the Implementation of the Native
American Housing Assistance and
Self-Determination Act*

*Committee on Indian Affairs
United States Senate*

February 13, 2002

**Navajo Nation
Testimony of President Kelsey A. Begaye**

**Senate Indian Affairs Committee
Oversight of Indian Housing Programs
February 13, 2002**

Good afternoon. Thank you Chairman Inouye, Vice Chairman Campbell, and other distinguished members of the Committee for the opportunity to speak to you today about Indian housing. As President of the Navajo Nation, I present to you the Navajo Nation's recommendations regarding the reauthorization of NAHASDA and housing issues facing the Navajo Nation. The Navajo Nation values the work Congress has done to address Indian housing needs with the passage of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), and its reauthorization will reaffirm the government's commitment to address and increase Indian homeownership.

As you are aware from many hearings covering Indian housing issues, tribes and Congress have had little success on curing the housing problems in Indian Country, despite the work done by both. In fact, the Navajo Nation discussed this issue in our Legislative Priorities for the 107th Congress written testimony. This testimony addressed many overall issues including, "Promoting Homeownership in Indian Country." The Navajo Nation especially appreciates the work of the Senate Committee on Indian Affairs (SCIA) and we look forward to working with you on the reauthorization and finding viable solutions to overcome housing barriers.

Last summer, SCIA Minority Staff Director, Mr. Paul Moorehead traveled to the western part of the Navajo Nation. He saw for himself that the Navajo Nation is mostly rural and lacks basic infrastructure in many parts. Added to the rural conditions, in the Navajo and Hopi region, are the restrictions that the Bennett Freeze imposes upon building new homes or to make improvements to existing improvements. Mr. Moorehead may himself be able to tell you about the great need and desire that the Navajo people have in trying to obtain the American dream of homeownership. I would like to thank Mr. Moorehead for his visit and I would also like to invite members of this Committee and its staff to also visit the Navajo Nation.

The National American Indian Housing Council (NAIHC) estimates that 40 percent of Native Americans live in overcrowded or physically inadequate housing conditions, as compared to 6 percent of the general population, and 33 percent of Native American households are considered very-low income, compared to 24 percent nationally. Fifty-six percent (56%) of our approximate 250,000 Navajo members live below the poverty level. We estimate that 20,000 to 30,000 new housing units are needed immediately on the Navajo Nation. Nationwide, NAIHC estimates that 200,000 new housing units are needed. These are waiting list numbers and do not take into account actual need, which would include those tribal members and families continually moving back to reservations as a result of economic hardship or other needs.

Tribal Consultation and the Negotiated Rulemaking Process

As conveyed in the Navajo Nation written testimony on Legislative Priorities for the 107th Congress, we support the development of a comprehensive federal Indian funding policy that examines the amount of available funds for programs and services for which Indian Nations are eligible, the mechanisms for distribution and the funding management requirements. Formal consultation with tribal governments in the analysis development is also essential, provided that consultation is well defined to ensure success in the development of a comprehensive and meaningful Indian funding policy that supports tribal self-government and self-determination while fulfilling the obligations the United States has undertaken to Indian people.

We believe that by involving the Navajo Nation and other Indian Nations in the formulation of annual federal budget proposals, true government-to-government consultation is achieved. Tribal involvement in the budget process creates better dialogue between federal agents and tribal representatives, resulting in a better understanding by federal agencies of the unique budgetary needs of tribal governments. Consultation allows tribal governments to participate in important decision-making activities that directly impact their own communities. And, direct input from tribal governments promotes and respects Indian self-determination.

The NAHASDA legislation obligates HUD to follow a federal statutory negotiated rulemaking process when developing regulations to implement NAHASDA. HUD has taken a position that this is only a one-time process to be used for the establishment of implementing regulations. The Navajo Nation opposes HUD's position because it is not in accordance with the statutory provision and the congressional findings of NAHASDA, that this is an on-going requirement that HUD must follow on all new regulations. The Navajo Nation requests your support to strengthen the government-to-government relationship with HUD and to encourage them to follow this policy.

To implement the original intent of Congress for the HUD Negotiated Rulemaking process, HUD must consult with all federally recognized tribes, including the make up of the representatives to the Negotiated Rulemaking Committee. Upon the selection of the Negotiated Rulemaking Committee, the Navajo Nation requests that Congress provide HUD the appropriate funding in order to achieve the objectives of NAHASDA and the tribal consultation policy.

Appropriations

As you are very aware, in President Bush's fiscal year 2003 budget request, there is major focus on Homeland Security and the war against terrorism. The Navajo Nation understands that this is not the Senate Appropriation's Committee, but would like to bring to your attention the great need to support domestic security within the United States, which must include the indigenous homelands of Indian Country. The President is asking for billions of dollars to secure and rebuild Afghanistan, which is a noble cause, but as reported in the 2000 U.S. Department of Energy study, 37% of Navajo homes lack electricity. In addition, 77% of Navajo homes lack plumbing, 76% lack telephone service, and 72% lack kitchen facilities. The lack of basic utility infrastructure is common across

Indian Country. In your work, please keep in mind that tribal communities are in need and should also be considered.

Environmental Review Process

The Navajo Nation is concerned about the current environmental review process. This process requires tribes to utilize a large amount of NAHASDA funding to conduct environmental review for minor housing renovation. While environmental review is important and necessary, this requirement makes it difficult for tribes to further stretch an already inadequate amount of NAHASDA funding. The Navajo Nation knows that further coordination of the Environmental Protection Agency, HUD, and other federal agencies could alleviate these problems.

The National Environmental Protection Act requires that a lead agency be designated when there are multiple funding agencies. This allows for only one environmental review process to occur. Agencies requiring multiple independent environmental assessments will only hinder construction progress. This NEPA process not only makes sense, but also saves time and money and therefore should be supported.

HUD Native American Program

The Navajo Nation is concerned about the current vacancy of the head of HUD's Native American Program as well as the downgrading of the position from SES designation to a GS-15 position. This position also has the additional responsibility of not only overseeing the Native American Program, but also the new Native Hawaiian Homeland program.

The Navajo Nation recommends that this position should be raised to an Assistant Secretary for Indian Affairs at HUD. This elevation is warranted because of the government-to-government relationship and the importance of providing adequate and safe housing for Indian Country. The principles of tribal sovereignty and the government-to-government relationship between tribes and the federal government place Indian housing in its own category, needing its own authority and direct contact with the Secretary.

Bureau of Indian Affairs Title Conveyance

The Navajo Nation continues to experience considerable delays in obtaining approval by the Bureau of Indian Affairs (BIA) on title conveyances. The Navajo Nation and BIA have attempted to implement a process that would facilitate a prompt review and approval of title conveyances. There are several hundred title conveyances, however, pending within the BIA Navajo Regional Office.

One current example creating unnecessary delays is that once the parties agreed on the appropriate conveyance form, the BIA refused to approve conveyances because the conveyance document was printed in maroon ink. The document printed with this color ink readily identifies it as an original document. The BIA objects because the maroon ink makes it more difficult to transfer it to microfiche records. This bureaucracy does not ease the difficulty of securing approval of title conveyances. Certainly, there is a simple

solution to this problem. The Navajo Nation requests the Committee's support in obtaining the cooperation of the BIA to promptly approve title conveyances.

Private Market Incentives

One way to achieve sustainability without federal subsidy is to stimulate investment in tribal communities. Unfortunately, barriers exist which deter private investors. Although non-tribal investors can help to revitalize these communities, tribes would like most to create incentives for tribal investors to help their communities from the inside.

For example, implementing substantial tax incentives, such as a capital gains tax exemption, would encourage tribal members to invest in managed rental properties on reservations. Given the right environment, inside investment will significantly support self-sustainability on Indian reservations.

Along these lines of stimulating private growth in communities is halting predatory lending practices. Although a problem in most all low-income communities, Native American communities suffer acutely from exploitation by lenders because there is an almost complete absence of other options, even for people who can afford competitive loans. An extensive outreach by HUD and Veterans Housing would help eliminate Indian Country's reliance on unscrupulous lenders.

Another recommendation is to revisit the Community Reinvestment Act (CRA) and how it is applied in Indian Country. Currently, banks are able to meet their CRA requirements without actually going into rural America. Perhaps there is some way to make Indian Country a component of the CRA, which would require greater scrutiny by lenders. Regulators should act to hold lenders accountable for more rural areas.

With respect to the Navajo Nation, I have actively supported NHA's efforts to create a private housing market within the Navajo Nation. NHA has implemented procedures that will aid in the prompt recordation of titles and acquisition of land for housing development. They have negotiated new master leases with the BIA that will encourage private financing of Navajo homes. They completed an appraisal of every NHA housing unit to provide financial institutions with sufficient information to approve mortgages. And, NHA also established a mortgage guarantee program.

In addition, I have directed the consolidation of the Navajo Nation's housing programs to facilitate the prompt development of housing and streamlining the delivery of housing services and reduce housing program costs. I believe this demonstrates that the Navajo Nation is being proactive in addressing our desperate housing need and aggressively pursuing non-governmental private financing to supplement federal funding.

Conclusion

In closing, I would like to reiterate the importance of consulting with tribes on how to implement NAHASDA, as well as allowing us the freedom to work with the program without excessive oversight and restriction. The dilemma we face is the lack of support at the agency level for tribal sovereignty. The lack of consultation significantly hinders Indian housing development opportunities. Without at least, an open door policy to communicate,

the Indian housing tragedy will continue despite laws passed by this and future Congresses. Thank you for your attention and I welcome any questions you may have.



IGRAU-234-01
Resolution of the
Intergovernmental Relations Committee of the
Navajo Nation Council
***Approving the Navajo Nation's Written
Testimony to the Senate Committee on Indian
Affairs on the Goals and Priorities of the Navajo
Nation for the 107th Congress***

NHA-3354-2002
Resolution of the Navajo Housing Authority
*Recommending to Congress the Adoption of Certain
Legislative Initiatives and Appropriations of Adequate
Funds for Indian Housing Programs*

IGRN-246-99
Resolution of the
Intergovernmental Relations Committee of the
Navajo Nation Council
*Approving the Navajo Nation's Written Position on
Establishing a Tribal Consultation Policy With the U.S.
Department of Housing and Urban Development (HUD)
to Serve the Purpose of a Direct Partnership on Housing
Issues and Related Matters*